## REMARKS

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 1-40 are pending in this application. Claims 1-20 are amended, and claims 21-40 are newly added. Applicants submit that no new matter is added by the claim amendments or newly added claims.

## Information Disclosure Statements

Applicants appreciate the Examiner's indication that the references included in the Information Disclosure Statement filed January 21, 2005 have been acknowledged as considered. However, Applicants note that an Information Disclosure Statement was filed on January 2, 2008 and an Information Disclosure Statement was filed on April 2, 2008. Accordingly, Applicants request the Examiner consider each of the references cited in the Information Disclosure Statements filed January 2, 2008 and April 2, 2008.

## Drawings

Applicants respectfully request the next communication from the USPTO indicate that the filed drawings are acceptable.

## Claim Objections

Claim 5 is objected to because of a minor informality. Claim 5 is amended to address this informality. Therefore, Applicants request the objection to claim 5 be withdrawn.

## Claim Rejections under 35 U.S.C. § 101

Claims 1-16 are rejected under 35 U.S.C. § 101 as allegedly being directed towards non-statutory subject matter. Page 2, lines 20-22 of the Office Action mailed January 2, 2008 states the following.

> The claimed invention would have been statutory had it been worded to include computer program embedded in a computer readable medium. Computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationship between the computer program and the rest of the computer which permits the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

The above quoted portion of the Office Action appears to indicate that only computer programs recorded on a computer readable medium constitute statutory subject matter. However, this assertion seems somewhat inconsistent with MPEP § 2106.01 and case law described below.

Initially, Applicants note "functional descriptive material" consists of ***data* structures and** computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited music, literary works and a compilation or mere arrangement of data.

Applicants submit that data structures recorded on a computer readable medium may constitute statutory subject matter.

Further, MPEP § 2106.01 indicates both types of "descriptive material" are nonstatutory when claimed as descriptive material *per se*, [In re Warmerdam,] 33 F.3d at 1360, 31 USPQ2d at 1759. However, when functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory

in most cases since use of technology permits the function of the descriptive material to be realized. Compare In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (discussing patentable weight of data structure limitations in the context of a statutory claim to a data structure stored on a computer readable medium that increases computer efficiency) and Warmerdam, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory).

In view of the above, a more detailed discussion of In re Lowry is warranted.

Claim 1 of In re Lowry recited:

> 1. A memory for storing data for access by an application program being executed on a data processing system, comprising:
>
> ***a data structure stored in said memory, said data structure including information resident in a database used by said application program and including;*** (emphasis added)
>
> a plurality of attribute data objects stored in said memory, each of said attribute data objects containing different information from said database;
>
> a single holder attribute data object for each of said attribute data objects, each of said holder attribute data objects being one of said plurality of attribute data objects, a being-held relationship existing between each attribute data object and its holder attribute data object, and each of said attribute data objects having a being-held relationship with only a single other attribute data object, thereby establishing a hierarchy of said plurality of attribute data objects;
>
> a referent attribute data object for at least one of said attribute data objects, said referent attribute data object being nonhierarchically related to a holder attribute data object for the same at least one of said attribute data objects and also being one of said plurality of attribute data objects, attribute data objects for which there exist only holder attribute data objects being called element data objects, and attribute data objects for which there also exist referent attribute data objects being called relation data

> objects; and
>
> an apex data object stored in said memory and having no being-held relationship with any of said attribute data objects, however, at least one of said attribute data objects having a being-held relationship with said apex data object.

In finding that the printed matter cases have no factual relevance to the claims at issue in In re Lowry, the court stated:

> Nor are the data structures analogous to printed matter. Lowry's ADOs do not represent merely underlying data in a database. ADOs contain both information used by application programs and information regarding their physical interrelationships within a memory. Lowry's claims dictate how application programs manage information. Thus, Lowry's claims define functional characteristics of the memory.
>
> In re Lowry, at 1034.

The court further noted:

> Indeed, Lowry does not seek to patent the Attributive data model in the abstract. Nor does he seek to patent the content of information resident in a database. ***Rather, Lowry's data structures impose a physical organization on the data***.(emphasis added)
>
> In re Lowry, at 1034.

And, on the issue of abstract ideas, the Federal Circuit in In re Lowry noted:

> More than mere abstraction, the data structures are specific electrical or magnetic structural elements in a memory. According to Lowry, ***the data structures provide tangible benefits: data stored in accordance with the claimed data structures are more easily accessed, stored, and erased***. Lowry further notes that, unlike prior art data structures, Lowry's data structures simultaneously represent complex data accurately and enable powerful nested operations. ***In short, Lowry's data structures are physical entities that provide increased efficiency in computer operation***. (emphasis added)
>
> In re Lowry, at 1035.

Applicants submit the claims at issue (e.g., amended claims 1-16) are analogous to the claims in In re Lowry, and as such are clearly statutory subject matter. Unlike the claims of In re

Warmerdam, the claims of the subject application do not recite mathematical equations, or the generation of data structures using mathematical equations. Instead, as in In re Lowry, amended claim 1 recites a computer readable medium storing a data structure that dictates how application programs reproduce data. Accordingly, because the computer readable medium recited in amended claims 1-16 stores a data structure for managing reproduction of at least one still image recorded on the computer readable medium, amended claims 1-16 are believed to be directed towards a computer readable medium storing ***functional*** descriptive material. In the language of MPEP §2106.01 regarding ***functional*** descriptive material, claims 1-16 are directed to a claimed computer readable medium storing a data structure defining structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.

In light of the above arguments and amendments to claims 1-16, Applicants respectfully request that the rejection of claims 1-16 under 35 U.S.C. § 101 be withdrawn.

**Claim Rejections under 35 U.S.C. § 102(b)**

Claims 1-20 stand rejected under 35 U.S.C. § 102(b) as anticipated by Kashiwagi et al. (U.S. Publication No. 2004/0179820, herein Kashiwagi). Applicants respectfully traverse this rejection as detailed below.

Initially, Applicants note that each of independent claims 1 and 17-20 are amended to recite that "***the clip stream file is separate from the clip information file***." Applicants submit that at least this feature patentably distinguishes over Kashiwagi.

Page 3, lines 16-21 of the Office Action mailed January 2, 2008 indicates the still image of claim 1 corresponds to the "VOBU" of Kashiwagi and the "clip information file" of claim 1 corresponds to the "NV" of Kashiwagi. However, in FIGS. 16 and 18 of Kashiwagi, the NV is

included in the VOBU. In particular, as shown in FIG. 18 of Kashiwagi, the presentation data and information thereof do not exist as separate files. Instead, the NV packs and video data are included in the packet, and the packet is included in the VOBU as shown by FIGS. 16 and 18 of Kashiwagi reproduced below.

*Fig.16*

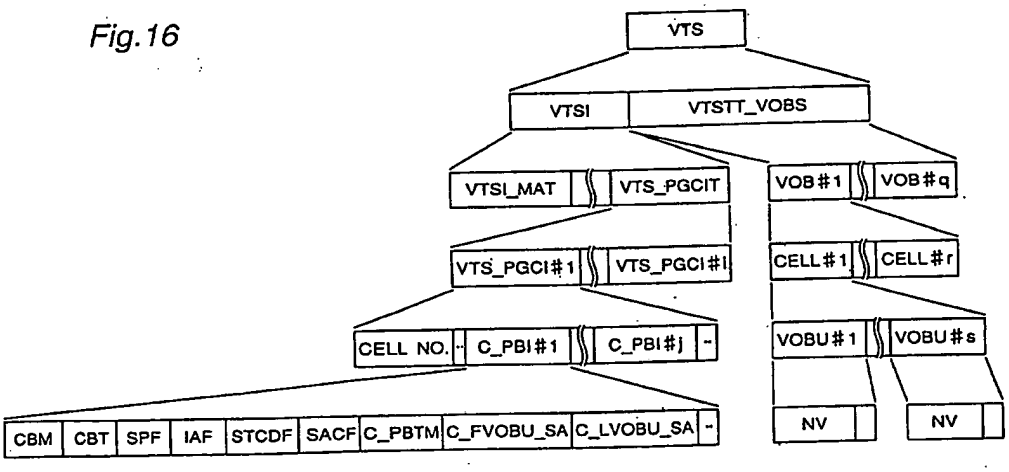
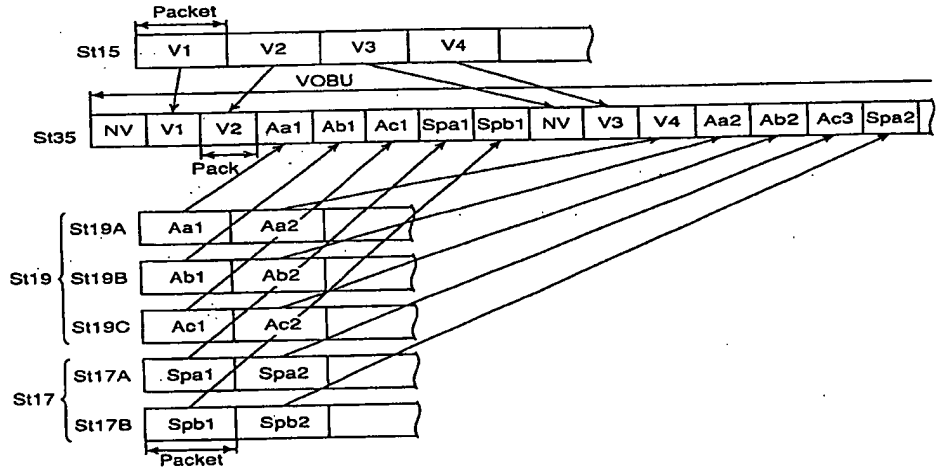



*Fig.18*



In light of above, Applicants respectfully submit that Kashiwagi fails to disclose, teach or suggest that "***the clip stream file is separate from the clip information file***," as recited in each of amended independent claims 1 and 17-20. Therefore, Applicants respectfully request the rejection of claims 1 and 17-20, as well as all claims depending therefrom, under 35 U.S.C. § 102(b) be withdrawn.

## New Claims

Claims 21-40 are newly added by this Amendent, and Applicants submit that no new matter is added by claims 21-40. Applicants submit these new claims are allowable over the cited art of record for at least the same reasons as the independent claims from which claims 21-40 depend.

## Telephone Interview

Should the Examiner not find the above arguments persuasive, Applicants request the Examiner contact Scott A. Elchert, Reg. No. 55,149 so that a telephone interview may be scheduled for this application to further discuss the rejections.

## CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of the pending claims of the present application is earnestly solicited.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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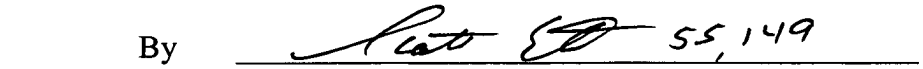
By  55,149

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